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NATIONALITY IN RELATION TO THE SUCCESSION OF STATES

Titles and texts of draft articles (19 to 26) of Part II, text of a Preamble and the revised title of Part I of Nationality of natural persons in relation to the succession of States adopted by the Drafting Committee on first reading*

PART II. PROVISIONS RELATING TO SPECIFIC CATEGORIES OF SUCCESSION OF STATES

Article 19

Application of Part II

In giving effect to the provisions of Part I in specific situations, States shall take into account the provisions of Part II.

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* The number within square brackets indicates the number of the corresponding article proposed by the Special Rapporteur in his Third Report.

SECTION 1

TRANSFER OF PART OF THE TERRITORY

Article 20 [17]

Attribution of the nationality of the successor State and withdrawal of the nationality of the predecessor State

When part of the territory of a State is transferred by that State to another State, the successor State shall attribute its nationality to the persons concerned who have their habitual residence in the transferred territory and the predecessor State shall withdraw its nationality from such persons, unless otherwise indicated by the exercise of the right of option which all such persons shall be granted.

SECTION 2

UNIFICATION OF STATES

Article 21 [18]

Attribution of the nationality of the successor State

Without prejudice to the provisions of article 7, when two or more States unite and so form one successor State, irrespective of whether the successor State is a new State or whether its personality is identical to that of one of the States which have united, the successor State shall attribute its nationality to all persons who, on the date of the succession of States, had the nationality of a predecessor State.

SECTION 3

DISSOLUTION OF A STATE

[Article 19]
[deleted]

Article 22 [19/20]

Attribution of the nationality of the successor States

When a State dissolves and ceases to exist and the various parts of the territory of the predecessor State form two or more successor States, each successor State shall, subject to the provisions of article 23, attribute its nationality to:

(a) persons concerned having their habitual residence in its territory; and

(b) without prejudice to the provisions of article 7:

(i) persons concerned not covered by subparagraph (a) having an appropriate connection with a constituent unit of the predecessor State that has become part of that successor State;

(ii) persons concerned having their habitual residence in a third State, who were born in or, before leaving the predecessor State, had their last habitual residence in what has become the territory of that successor State or having any other appropriate connection of a similar character with that successor State.

Article 23 [21]

Granting of the right of option by the successor States

1. Successor States shall grant a right of option to all persons concerned covered by the provisions of article 22 who are qualified to acquire the nationality of two or more successor States.

2. Each successor State shall grant a right to opt for its nationality to persons concerned who are not covered by the provisions of article 22.

SECTION 4

SEPARATION OF PART OF THE TERRITORY

[Article 22]
[deleted]

Article 24 [22/23]

Attribution of the nationality of the successor State

When part or parts of the territory of a State separate from that State and form one or more successor States while the predecessor State continues to exist, a successor State shall, subject to the provisions of article 26, attribute its nationality to:

(a) persons concerned having their habitual residence in its territory; and

(b) without prejudice to the provisions of article 7:

(i) persons concerned not covered by subparagraph (a) having an appropriate connection with a constituent unit of the predecessor State that has become part of that successor State;

(ii) persons concerned having their habitual residence in a third State, who were born in or, before leaving the predecessor State, had their last habitual residence in what has become the territory of that successor State or having any other appropriate connection of a similar character with that successor State.

Article 25 [24]

Withdrawal of the nationality of the predecessor State

1. Subject to the provisions of article 26, the predecessor State shall withdraw its nationality from persons concerned qualified to acquire the nationality of the successor State in accordance with article 24. It shall not, however, withdraw its nationality before such persons acquire the nationality of the successor State.

2. Subject to the provisions of article 26, the predecessor State shall not withdraw its nationality from:

(a) persons concerned having their habitual residence in its territory;

(b) persons concerned not covered by subparagraph (a) having an appropriate connection with a constituent unit of the predecessor State that has remained part of the predecessor State;

(c) persons concerned having their habitual residence in a third State, who were born in or, before leaving the predecessor State, had their last habitual residence in what has remained part of the territory of the predecessor State or having any other appropriate connection of a similar character with that State.

Article 26 [25]

Granting of the right of option by the predecessor and the successor States

Predecessor and successor States shall grant a right of option to all persons concerned covered by the provisions of articles 24 and 25 who are qualified to have the nationality of both the predecessor and successor States or of two or more successor States.

PREAMBLE

The General Assembly,

Considering that problems of nationality arising from succession of States are of concern to the international community,

Emphasizing that, while nationality is essentially governed by internal law, international law limits the freedom of action of States in this field,

Recognizing that in matters concerning nationality, due account should be taken both of the interests of States and those of individuals,

Recalling that the Universal Declaration of Human Rights of 1948 proclaimed the right of every person to a nationality,

Recalling also that the International Covenant on Civil and Political Rights of 1966 and the Convention on the Rights of the Child of 1989 recognize the right of every child to acquire a nationality,

Emphasizing that the human rights and fundamental freedoms of persons whose nationality may be affected by a succession of States must be fully respected,

Bearing in mind the provisions of the Convention on the Reduction of Statelessness of 1961, the Vienna Convention on Succession of States in Respect of Treaties of 1978 and the Vienna Convention on Succession of States in Respect of State Property, Archives and Debts of 1983,

Convinced of the need for the codification and progressive development of the rules of international law concerning nationality in relation to the succession of States as a means for ensuring greater juridical security in international relations,

Proclaims the following:

Title of Part I

PART I. GENERAL PROVISIONS